

1 Joann Selleck, Esq. (SBN 145557)
2 COZEN O'CONNOR
3 501 West Broadway
4 Suite 1610
5 San Diego, CA 92101
6 Telephone: 619.234.1700
7 Facsimile: 619.234.7831

8 Attorneys for Defendant
9 ACE PROPERTY AND CASUALTY
10 INSURANCE COMPANY

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 JACK D. HARRISON and NAOMA
14 HARRISON,

15 Plaintiffs,

16 vs.

17 BANKERS STANDARD INSURANCE
18 COMPANY, ACE PROPERTY AND
19 CASUALTY INSURANCE COMPANY,
20 AMERICAN FAMILY MUTUAL
21 INSURANCE COMPANY and BBVA
22 COMPASS INSURANCE AGENCY,
23 INC.; and DOES 1 through 50,

24 Defendants.

Case No. 13CV1682 DMS JMA

**MEMORANDUM OF POINT AND
AUTHORITIES IN SUPPORT OF
DEFENDANT ACE PROPERTY
AND CASUALTY INSURANCE
COMPANY'S MOTION TO
DISMISS**

DATE: November 8, 2013
TIME: 1:30 p.m.
COURTROOM: 13A

Judge Dana M. Sabraw

25 Defendant Ace Property and Casualty Insurance Company ("AP&C") submits
26 this Motion to Dismiss pursuant to FRCP 12(b)(6) as the Plaintiffs fail to state any
27 claim whatsoever against this Defendant.

28 The insurance policies at issue with this motion were issued by Bankers
Standard Insurance Company. One policy was a homeowner's insurance policy as
admitted by Plaintiffs in Paragraph 12 of the Complaint, policy number 268-03-86-
69H. The second was a "valuables" policy, number 268-03-86-69V. Both policies

were for the period from July 20, 2011 to July 20, 2012. The policies are attached to the Notice of Lodgment filed herewith as Exhibits "A" & "B" respectively. Plaintiffs' allegation that the insuring company was "AP&C" is unavailing. Plaintiff admits in paragraph 51 that the contracts control. Quite clearly on the declarations pages of both insurance contracts it indicates that the policies were issued by Bankers Standard Insurance Company and not by some other company, nor by AP&C. See e.g., NOL at A01, A04, B01.

Thus, all of the causes of action alleged against Ace Property and Casualty Insurance Company must be dismissed as Plaintiffs fail to state a claim against AP&C.

Additionally, all of the basis stated in the concurrently filed Motion to Dismiss of Defendant Bankers Standard apply equally to AP&C, even if AP&C were determined to have a contract with Plaintiffs, which is denied. For the reasons stated in Bankers Standard's motion, the Complaint also fails to state a claim against AP&C.

CONCLUSION

For the foregoing reasons Ace Property and Casualty Insurance Company requests that all causes of action against that company be dismissed with prejudice.

Dated: October 10, 2013

COZEN O'CONNOR

By: /S/ Joann Selleck

JOANN SELLECK
Attorneys for Defendant
ACE CASUALTY AND INSURANCE
COMPANY

LEGAL\17214337\1 13186.0001.000/339871.000